

REMARKS

Claims 1-19 are currently pending in the present application.

Claims 1-11, 13-14 and 16-19 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,367,720 B2 to Okamoto, *et al.* ("Okamoto").

Claim 12 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Okamoto, and claim 15 stands rejected under § 103(a) as unpatentable over Okamoto in view of U.S. Patent No. 5,871,157 to Fukutomi *et al.* ("Fukutomi").

Okamoto Is Not An Effective Reference Under §§ 102(e) and 103(a).

The Applicants respectfully traverse the pending rejections on the grounds that the Okamoto reference is not an effective reference against the present application under §§ 102(e) and 103(a).

Both prior to and after the enactment of the AIPA amendments, under § 102(e) a patent granted on an application for patent filed in the U.S. by another, before the invention thereof by the applicant for patent, may be cited as prior art.¹ It is well established that the effective date under § 102(e) of a U.S. application claiming priority under § 119 to a foreign application is the date of filing of the U.S. application, not the foreign filing date. *See, e.g.*, MPEP §706.02 (f)(1), Example 3 (citing *In re Hilmer*).

Under § 102(e), the effective date of the Okamoto reference is August 29,

¹ In the present case, the Okamoto reference did not claim priority to an international application and was not published under § 122(b), thus the provisions of § 102(e) drawn to published applications or applications claiming priority to international applications are inapplicable to the present case)

2000, its U.S. filing date. The present Application, filed in the U.S. on August 8, 2001, claims priority to International Application PCT/JP00/00374, filed January 26, 2000. Because the filing date of PCT/JP00/00374 establishes a date of invention that is at least as early as January 26, 2000 (and thus prior to the August 29, 2000 effective date of the Okamoto reference), Okamoto may not be cited as prior art against the present Application under § 102(e).

Accordingly, the Applicants respectfully request the pending rejections under §§ 102(e) and 103(a) based on the Okamoto reference be withdrawn.

CONCLUSION

In view of the foregoing remarks, the Applicants respectfully request withdrawal of the pending §§ 102(e) and 103(a) rejections, and early and favorable consideration of claims 1-19.

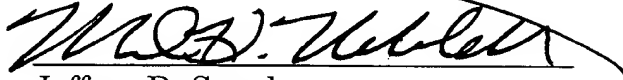
If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit

Account No. 05-1323 (Docket #381NT/49741US).

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Respectfully submitted,



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